IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

WP(C).No. 33295 of 2007(L)

PETITIONER:

S.SAJILAL, ANANDABHAVAN,
MEENATHUCHEREY, KAVANADU,
KOLLAM - 691 003.

BY ADV. SRI.P.V.LOHITHAKSHAN
SMT.P.VIJAYAMMA

RESPONDENTS:
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1. CANARA BANK, CIRCLE OFFICE,
THIRUVANANTHAPURAM - 695 039,
REP. BY ITS DEPUTY GENERAL MANAGER.

2. AUTHORIZED OFFICER, CANARA BANK,
ANANDAVALLEESWARAM, KOLLAM.

BY SRI.P.GOPINATH MENON, SC FOR BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C)NO. 33295 OF 2007 L
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Dated this the 19th day of November, 2007

J U D G M E N T

Writ petitioner is a compulsorily retired employee of the respondent Bank. During his service, he had incurred certain liabilities and on the default in repayment resulted in proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and that is sought to be challenged in this writ petition.

2. At the time when the writ petition came up initially for orders, it was submitted on behalf of the writ petitioner that although he had challenged his dismissal, which was later on converted into compulsory retirement by filing writ petition in this court as WP(C) No.33854/06, without prejudice to his contentions, he is agreeable to the bank adjusting the amounts that are due to him. In view of the submission so made, the case was adjourned for enabling the standing counsel to the Bank to get instructions in the matter and that is how the case came up again today.

2. Today, the standing counsel for the Bank submits that credit has been given to payments already made. It is pointed out that towards his Provident Fund, the amount due is Rs.44,962.99/- and that his total liability to the Bank is around Rs.6.5 lakhs. Counsel for the petitioner submits that without prejudice to his contentions in the other writ petition, he is agreeable for the bank to adjust the Provident Fund dues as well and he pleads that he may be given a breathing time to raise funds to liquidate the balance liability.

3. After hearing both sides, in view of the submissions that are made as above, I dispose of this writ petition with the following directions;

(i) That without prejudice to the contentions raised by the petitioner in WP(C) No.33854/06, the Bank will be free to appropriate the PF dues of the petitioner towards his liability in the housing loan.

(ii) The Bank will also be entitled to make similar appropriation, if any other amount is also due to the petitioner's credit.

(iii) The proceedings initiated against the petitioner will be deferred till 15th February, 2008 in order to enable the petitioner to raise funds for liquidating the liability that is outstanding in his housing loan account.

(iv) If the petitioner is not in a position to liquidate the liability within the time as permitted above, it will be open to the Bank to continue action that it has initiated.

(v) In the meantime, if there is any one time settlement or other beneficiary scheme in vogue, it will be open to the petitioner to apply for the benefit of the same.

ANTONY DOMINIC, JUDGE

Rp